

Amendment Number 2
to
Contract Number DIR-SDD-210
between
State of Texas, acting by and through the Department of Information Resources
and
Southwestern Bell Telephone Company dba AT&T DataComm, as
successor to
Southwestern Bell Telephone, LP dba AT&T DataComm

This Amendment Number 2 to Contract Number DIR-SDD-210 Contract is between the Department of Information Resources ("DIR") and Southwestern Bell Telephone Company dba AT& T DataComm ("Vendor"). Southwestern Bell Telephone Company dba AT& T DataComm is successor to Southwestern Bell Telephone, L.P. dba AT&T DataComm. DIR and Vendor agree to modify the terms and conditions of the Contract as follows:

1. DIR acknowledges the name of the Vendor has been changed to Southwestern Bell Telephone Company dba AT&T DataComm, with its principal place of business at 712 East Huntland, Austin, Texas, 78752.

2. **Contract, Section 2, Term of Contract**, is restated as follows:

DIR and Vendor hereby agree to extend the term of the Contract for one (1) year through November 16, 2008. Prior to expiration of the term, DIR and Vendor may extend the Contract, upon mutual agreement, for up to one (1) optional one-year renewal term.

3. **Contract, Section 8, Authorized Exceptions to Appendix A, Standard Terms and Conditions for Product and Related Services Contracts**, is hereby updated to include the following:

- f. All references to Catalog Information System Vendors (CISV) are hereby deleted.
- g. All references to Texas Building and Procurement Commission (TBPC) are hereby revised and replaced with Texas Comptroller of Public Accounts (CPA).

4. **Appendix A, Section 3, Definitions, A. Customer**, is hereby restated as follows:

A. Customer - any Texas state agency, unit of local government, institution of higher education as defined in Section 2054.003, Texas Government Code, and those state agencies purchasing from a DIR contract through an Interagency Agreement, as authorized by Chapter 771, Texas Government Code, any local government as authorized through the Interlocal Cooperation Act, Chapter 791, Texas Government Code, and the state agencies and political subdivisions of other states as authorized by Section 2054.0565, Texas Government Code and, except for telecommunications services under Chapter 2170, Texas Government Code, assistance organizations as defined in Section 2175.001, Texas Government Code to mean:

- 1) A non-profit organization that provides educational, health or human services or assistance to homeless individuals;

- 2) A nonprofit food bank that solicits, warehouses, and redistributes edible but unmarketable food to an agency that feeds needy families and individuals;
- 3) Texas Partners of the Americas, a registered agency with the Advisory Committee on Voluntary Foreign Aid, with the approval of the Partners of the Alliance Office of the Agency for International Development;
- 4) A group, including a faith-based group, that enters into a financial or non-financial agreement with a health or human services agency to provide services to that agency's clients;
- 5) A local workforce development board created under Section 2308.253;
- 6) A nonprofit organization approved by the Supreme Court of Texas that provides free legal services for low-income households in civil matters;
- 7) The Texas Boll Weevil Eradication Foundation, Inc., or an entity designated by the commissioner of agriculture as the foundation's successor entity under Section 74.1011, Texas Agriculture Code;
- 8) A nonprofit computer bank that solicits, stores, refurbishes and redistributes used computer equipment to public school students and their families; and
- 9) A nonprofit organization that provides affordable housing.

5. **Appendix A, Section 9, Vendor Responsibilities, B. Vendor Certifications**, is hereby restated in its entirety as follows:

B. Vendor Certifications

Vendor certifies that it and its designated Order Fulfillers: (i) have not given, offered to give, and do not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract, (ii) are not currently delinquent in the payment of any franchise tax owed the State of Texas and are not ineligible to receive payment under §231.006 of the Texas Family Code and acknowledge the Contract may be terminated and payment withheld if this certification is inaccurate, (iii) neither they, nor anyone acting for them, have violated the antitrust laws of the United States or the State of Texas, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage, (iv) have not received payment from DIR or any of its employees for participating in the preparation of the Contract, (v) under Section 2155.004, Texas Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate, (vi) to the best of their knowledge and belief, there are no suits or proceedings pending or threatened against or affecting them, which if determined adversely to them will have a material adverse effect on the ability to fulfill their obligations under the Contract, (vii) are not suspended or debarred from doing business with the federal government as listed in the *Excluded Parties List System (EPLS)* maintained by the General Services Administration, and (viii) as of the effective date of the Contract, are not listed in the prohibited vendors list authorized by Executive Order #13224, *"Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"*, published by the United States Department of the Treasury, Office of Foreign Assets Control. In addition, Vendor acknowledges the applicability of §2155.444 and §2155.4441, Texas Government Code, in fulfilling the terms of the Contract.

6. **Appendix A, Section 9, Vendor Responsibilities, K. Overcharges**, is hereby added as follows:

K. Overcharges

Vendor hereby assigns to DIR any and all of its claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 U.S.C.A. Section 1, et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. and Comm. Code Section 15.01, et seq.

7. **Appendix A, Section 9, Vendor Responsibilities, L. Prohibited Conduct**, is hereby added as follows:

L. Prohibited Conduct

Vendor represents and warrants that, to the best of its knowledge as of the date of this certification, neither Vendor nor any Order Fulfiller, subcontractor, firm, corporation, partnership, or institution represented by Vendor, nor anyone acting for such Order Fulfiller, subcontractor, firm, corporation or institution has: (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or the federal antitrust laws; or (2) communicated its response to the Request for Offer directly or indirectly to any competitor or any other person engaged in such line of business during the procurement for the Contract.

8. All other terms and conditions of the Contract as amended, not specifically modified herein, shall remain in full force and effect. In the event of conflict among the provisions, the order of precedence shall be this Amendment Number 2, Amendment Number 1 and the Contract.

IN WITNESS WHEREOF, the parties hereby execute this amendment to be effective as of the date of the last party to sign, but in all events no later than November 16, 2007.

**Southwestern Bell Telephone Company
dba AT & T DataComm**

**The State of Texas, acting by and through
the Department of Information Resources**

By: signature on file

By: signature on file

Name: Dallas Curry-Ikner

Name: Cindy Reed

Title: Associate Mgr Cm

Deputy Executive Director
Title: Operations & Statewide Technology Sourcing

Date: 11/08/07

Date: 11/09/07

Legal: 11/08/07